IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH.

Kishore Chand APPELLANT

VERSUS

State of Punjab RESPONDENT

CORAM : HON'BLE MR.JUSTICE MEHTAB S.GILL

Present:- Shri Gurvidner Singh Dhillon, Advocate for the petitioner.

Shri D.K.Mittal, D.A.G. Punjab.

MEHTAB S.GILL, J.

This is a revision petition against the judgment/order dated 10.12.1992 of the Chief Judicial Magistrate, Rupnagar whereby he convicted the petitioner under Section 304-A I.P.C. and sentenced him to undergo RI for one year and to pay a fine of Rs.1000/-, in default to further undergo RI for six month and against the judgment dated 13.7.1993 of the Additional Sessions Judge, Rup

Nagar, dismissing the appeal.

The case of the prosecution is that Chaman Lal along with his wife Tripta Dhawan and daughter Manu Dhawan (aged 9 years) and Anu Dhawan (aged 6 years) had gone in a bus from Rupnagar to see their relative Jaspal Singh Khosla in Ropar Thermal Plant Colony, Rupnagar. The bus stopped at R.T.P. Colony, After getting down from the bus, they were crossing the road and were standing by the road side. Truck No.HPG-2135 came from the side of Chandigarh. It was driven by the petitioner in a rash and negligent manner. It struck Manu Dhawan and knocked her down. The truck hit her both legs. Manu Dhawan was taken to the hospital where she died. The occurrence was witnessed by Krishan Lal Jagota and Joginder Singh.

The prosecution to prove its case, brought into the witness-box Chaman Lal PW-1, Joginder Singh PW-2, Krishan Lal PW-3, Krishan Lal Photographer PW-4, HC Baldev Singh PW-5 and Tarlochan Singh PW-6.

Learned counsel for the petitioner has argued that the Investigating Officer, the most matrial witness, was not examined. This prejudiced the case of the petitioner. The doctor who conducted the post-mortem examination on the dead-body of Manu Dhawan, was also not examined. There are material discrepancies in the statements of the witnesses.

Learned counsel for the State has argued that both the Investigating Officer and the doctor could not be examined, as the case had become old and thus, the learned trial Court closed the evidence. There is direct evidence to prove the case of the prosecution.

I have heard the learned counsel for the parties and perused the

record and the impugned judgment with their assistance.

The Petitioner in his statement before the Court has admitted that he took injured Manu Dhawan to the hospital and got her admitted. Statement of Chaman Lal Ex.PA which was recorded 11.20 a.m. was proved by Chaman Lal himself where he stated that he has stated in the F.I.R. that SI Nazar Singh has not been examined. But this itself is not fatal to the case of the prosecution. Chaman Lal, Joginder Singh and Krishan Lal have corroborated each other and also have supported the case of the prosecution.

I do not find any infirmity in the judgments of the courts below. Conviction of the petitioner is maintained.

Appeal is of the year 1993 and occurrence is of the year 1991. Petitioner was sentenced to undergo RI for one year and to pay a fine of Rs.1000/-. Learned counsel for the State has stated that the amount of fine has already been paid and out of the sentence of one year, petitioner has already undergone one month's RI. Sword of conviction has been hanging over the head of the petitioner for the last 16 years. This itself is a punishment. Sentence of the petitioner is modified to the extent already undergone.

With the above modification of sentence, revision petition is dismissed.

(MEHTAB S.GILL)
JUDGE

July 27, 2007
GD

WHETHER TO BE REFERRED TO REPORTER? YES/NO